UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

ROBERT CHURICH,

    Petitioner,

  v.

THE PEOPLE,

    Respondent.

Case No. 21-cv-00920-VC (PR)

ORDER OF DISMISSAL OF SECOND OR SUCCESSIVE PETITION; DENYING CERTIFICATE OF APPEALABILITY

Robert Churich, a state inmate at the California Men's Colony, files a petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging a state conviction from the Sonoma County Superior Court, case number SCR-671648. This is Churich's second petition challenging this conviction. On May 18, 2018, Churich filed the first petition challenging the same conviction. *See Churich v. Hatton*, Case No. 18-2843 VC. In the 2018 case, the court issued an order granting the motion to dismiss and denying a certificate of appealability. *See* ECF No. 62. Judgment was entered the same day. *See* ECF No. 63. Subsequently, Churich filed many letters which the court construed to be motions to alter or amend the judgment, which the court denied on July 24, 2020. *See* ECF No. 77.

A successive petition may not be filed in this court unless Churich first obtains from the United States Court of Appeals for the Ninth Circuit an order authorizing this court to consider the petition. *See* 28 U.S.C. § 2244(b)(3)(A); *Chades v. Hill*, 976 F.3d 1055, 1056-57 (9th Cir. 2020) (district court is without power to entertain successive petition unless petitioner first receives authorization from court of appeal). Churich has not obtained such an order from the Ninth Circuit. Therefore, the petition is DISMISSED without prejudice to refiling if Churich

obtains the necessary order.

A certificate of appealability will not issue. *See* 28 U.S.C. § 2253(c). This is not a case in which "reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

The clerk shall close the file and enter judgment in accordance with this order.

IT IS SO ORDERED.

Dated: February 26, 2021

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VINCE CHHABRIA
United States District Judge